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In re Application of :
VANDYNE et al. :
Application No.: 10/576,989 :
PCT No.: PCT/US2004/035651 :
Int. Filing Date: 27 October 2004 : NOTIFICATION
Priority Date: 31 October 2003 :
Attorney's Docket No.: 03-2285A-US :
For: METHOD AND APPARATUS FOR :
CONTROLLING EXHAUST GAS RECIRCULATION :
AND START OF COMBUSTION RECIPROCATING :
COMPRESSION IGNITION ENGINES WITH AN :
IGNITION SYSTEM WITH IONIZATION :
MEASUREMENT :

This notification is in response to applicants' "Petition Under 37 CFR 1.182" filed on 08 May 2006 and applicants' "Request Not to Treat Petition Filed May 8, 2006" filed on 28 September 2006.

BACKGROUND

On 27 October 2004, applicants filed international application PCT/US2004/035651 which designated the US and claimed a priority date of 31 October 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 19 May 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 May 2006 (30 April 2006 being a Sunday).

On 21 April 2006, applicants filed a TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a preliminary amendment. These application papers were identified by applicant with attorney docket number **502972-PCT-US-A** and assigned application number **10/576,989**.

On 21 April 2006, applicants filed a second TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a preliminary amendment. These application papers were identified by applicant with attorney docket number **502972-PCT-US-B**.

On 21 April 2006, applicants filed a third TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a preliminary amendment. These application papers were identified by applicant with attorney docket number **502972-PCT-US-C**.

On 21 April 2006, applicants filed a fourth TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a preliminary amendment. These application papers were identified by applicant with attorney docket number **502972-PCT-US-D**.

On 08 May 2006, applicants filed a "Petition Under 37 CFR 1.182" requesting that the application papers identified by attorney docket numbers **502972-PCT-US-B**, **502972-PCT-US-C**, and **502972-PCT-US-D** be converted from filings under 35 U.S.C. 371 to filings under 35 U.S.C. 111(a).

On 28 September 2006, applicants filed a "Request Not to Treat Petition Filed May 8, 2006" which was accompanied by a preliminary amendment.

DISCUSSION

As is evident from the above recited facts, applicant submitted four sets of papers to enter the national stage for the same international application. The submission of four sets of national stage papers to enter the United States is improper.

35 U.S.C. 363 states:

An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in 102(e) of this title. (emphasis added)

Further, 35 U.S.C. 371(b) states:

(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22(1) or (2), or under article 39(1)(a) of the treaty. (emphasis added)

The language of 35 U.S.C. 363 and 371 refers to the national stage of the PCT in the singular only, and thus only one (1) national stage application in the U.S. may develop from an international application. The Transmittal Letters filed 21 April 2006 indicate that each submission is "concerning a filing under 35 U.S.C. 371" of PCT/US2004/035651." No conflicting instructions appear in the application papers.

The "Request Not to Treat Petition Filed May 8, 2006" filed 28 September 2006 supercedes the petition under 37 CFR 1.182. Accordingly, the "Petition Under 37 CFR 1.182" has been placed in the application file but will not be further considered.

Each submission will be treated as a national stage application submitted under 35 U.S.C. 371. In that only one national stage of a PCT application is permitted, it is proper for all of the submissions to be placed in a single application and be assigned a single application number. Accordingly, all of the papers filed on 21 April 2006 have been placed in application number **10/576,989**.

Applicant should use application number **10/576,989** in all future communications with the Patent and Trademark Office in regards to the U.S. national stage of international application PCT/US2004/035651.

The preliminary amendment filed 28 September 2006 will be entered.

CONCLUSION

For the reasons set forth above, the four sets of submissions filed 21 April 2006 have been placed in the file of application number **10/576,989**.

For the reasons set forth above, the application papers filed 21 April 2006 identified by attorney docket number **502972-PCT-US-A** will be processed in application number **10/576,989** as the national stage application of PCT/US2004/035651.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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Enc.: Date-stamped postcard receipt for application papers filed 21 April 2006 identified by attorney docket number 502972-PCT-US-B
Date-stamped postcard receipt for application papers filed 21 April 2006 identified by attorney docket number 502972-PCT-US-C
Date-stamped postcard receipt for application papers filed 21 April 2006 identified by attorney docket number 502972-PCT-US-D